



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMno14120919

[REDACTED]
Complainant,

v.

CHASE BANK,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission,") pursuant to statutory authority and procedural regulations, hereby issues the following Notice of Finding with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 1-3-2(b).

On December 1, 2014, [REDACTED] ("Complainant") filed a Complaint with the Commission against Chase Bank ("Respondent") alleging discrimination on the basis of national origin in violation of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e, *et seq.*) and the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and subject matter. An investigation has been completed. Both parties have been given the opportunity to submit evidence. Based on a full review of the relevant file and records and the final investigative report, the Deputy Director now finds the following:

The issue before the Commission is whether Respondent subjected Complainant to disparate discipline because of her national origin. In order to prevail, Complainant must show that (1) she engaged in prohibited conduct similar to that of similarly-situated co-workers of another national origin and (2) the disciplinary measures enforced against her were more severe than those levied against the similarly-situated co-workers of another national origin. It is evident that Complainant engaged in prohibited conduct similar to that of similarly-situated non-Arabian employees; however, evidence shows that Respondent terminated her employment while issuing the similarly-situated non-Arabian employees written warnings.

By way of background, Respondent hired Complainant as a teller in August 1992. At all times, Respondent maintained various policies and procedures regarding performance. Moreover, Respondent maintained that violations of the aforementioned policies could result in the issuance of a coaching/counseling, written warning, written warning with restriction, and/or termination. However, Respondent's policies also noted that "the corrective action guidelines above are not



rigid steps and any of them may be omitted from the corrective action process.” Nonetheless, evidence shows that Respondent treated Complainant (Arabian) less favorably than her similarly-situated non-Arabian counterparts.

During Complainant’s tenure with Respondent, she received four written warnings. Specifically, Complainant received a written warning for a policy violation on or about June 5, 2006 and a written warning on or about September 13, 2012 for failure to follow the five keys to providing great customer services. Additionally, Respondent issued Complainant two written warnings in 2014, one of which for unscheduled absences on six separate occasions on or about April 8, 2014 and another for poor work performance relating to her vault duties on or about October 8, 2014. Nonetheless, Complainant received performance reviews of “meets expectations” on her 2011 year-end performance evaluation, mid-year 2012 performance evaluation, 2013 mid-year overall performance evaluation, 2013 year overall performance rating, and 2014 mid-year overall performance evaluation. While Respondent asserts that Complainant received numerous coaching sessions in 2014, these sessions were not noted on the 2014 performance evaluation. Moreover, when asked about the discrepancy, the Assistant Branch Manager at the branch subject to the instant Complaint stated that “she did not have a huge issue with Complainant [in 2014.] Complainant received a written warning for her attendance and didn’t have an issue after that.” Respondent also asserts that Complainant was placed on a performance improvement plan (hereafter “PIP”) in 2013; however, no evidence has been provided or uncovered to show that Complainant received the PIP as it is unsigned. While Respondent terminated Complainant on or about November 1, 2014 for “demonstrated unsatisfactory performance in a variety of areas for which [Respondent] repeatedly coached and counseled her,” evidence shows that two similarly-situated non-Arabian employees were treated more favorably under similar circumstances.

Specifically, one non-Arabian employee, [REDACTED] received two written warnings from Respondent dated September 2005 and July 2010 as well as a third warning on or about February 5, 2015 for unsatisfactory performance and failing to follow policy and procedure resulting in the “potential loss to the bank.” Evidence also suggests that Respondent had five coaching sessions with Petty-Johnson between September 2005 and January 2015. Similarly, another non-Arabian employee, [REDACTED] received a written warning on or about February 25, 2013 for accepting a fraudulent check resulting in the loss of \$1,215.86 as well as a second written warning on or about April 10, 2014 for a “pattern of inaccurate work and lack of attention” for multiple incidents occurring on or about October 5, 2013, November 6, 2013, April 1, 2014, and April 7, 2014. Moreover, on or about November 6, 2014, Respondent’s Vice President of Infrastructure Protection sent an email notifying the branch that [REDACTED] “violated customer identification policy” when she failed to properly identify an individual requesting a deposit. No evidence has been provided or uncovered to show whether Respondent disciplined Cannon for the aforementioned violation.

Despite Respondent’s assertions, there is insufficient evidence to support its contentions. Rather, evidence shows that several non-Arabian tellers were permitted to retain their employment despite engaging in numerous policy violations. In one instance, no evidence has been provided or

uncovered to show that the non-Arabian teller was disciplined despite the Vice President of Infrastructure Protection, Business Continuity, and Military Affairs tendered an email about her misconduct. Simply stated, evidence suggests that Respondent treated the similarly-situated non-Arabian tellers more favorably than Complainant under similar circumstances. As such and based upon the aforementioned, probable cause exists to believe that a discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910-IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice or the Commission's Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

November 9, 2015

Date

Akia A. Haynes

Akia A. Haynes, Esq.

Deputy Director

Indiana Civil Rights Commission